

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
Helena Headquarters -- 1420 East 6th Avenue
Helena, MT 59620
March 11, 2004

Commission Members Present: Dan Walker, Chairman; Tim Mulligan, Vice-Chairman; John Lane; Mike Murphy; John Brenden.

Fish, Wildlife & Parks Staff: Jeff Hagener, Director; FWP Department personnel.

Guests: Tom Esch, Attorney for Springbrook Ranch; Bill Morrissen; Mike Hutchin, Lake County Commissioner; Bill Myers, Pointer Scenic Cruises; Robin Cunningham, FOAM; Don Nickman, PPSA; Larry Copenhaver, MWF; Larry Sickerson; Lee Burroughs; Hank Harrington, WHI Association.

Topics of Discussion:

1. Opening - Pledge of Allegiance
2. Approval of February 12, 2004 Commission Minutes
3. Approval of Commission Expenses through February 29, 2004
4. Commission Meeting Date Changes
5. Employee Recognition Award to Barney Benkelman for 10 Years of Service
6. Revision to Commercial Use Definition within Parks Biennial Fee Rule - Final
7. Future Fisheries Projects - Final
8. Commercial Fishing Regulations - Final
9. Adoption of Paddlefish Roe Advisory Committee - Final
10. Yellow Bay No-Wake Zone - Final
11. Swan River No-Wake Zone - Final
12. Lone Pine Game Preserve Boundary Change - Tentative
13. Landowner Incentive Program for Sagebrush Habitat - Final
14. River Recreation Management Policy - Informational
15. Urban Working Group
16. Wolf Management Update
17. Public Opportunity to Speak on Issues Not Discussed at this Meeting

1. Opening - Pledge of Allegiance. Chairman Dan Walker called the meeting to order at 8:01 a.m. and led the Pledge of Allegiance.

2. Approval of February 12, 2004 Commission Minutes. The following corrections were made to the February, 2004 minutes.

Pg 3 – Sentence 3 - ...FWP needs to ~~gain~~ maintain public ~~favor~~ access....

Pg 9 – Paragraph 7 – Brenden stated he is not against Bonus Points as was stated in February minutes.

Pg 12 – Region 3 Deer Section regarding HD338. Wording change. Does not believe his proposal received a fair ~~chance~~ hearing due to fabrication of issues and a diversion from the actual issues regarding hunting opportunities by those opposed. He is removing it from consideration within the tentatives, however, he.....

Pg 16 and Pg 19 – Add the words “from consideration” to motion regarding the withdrawal of the proposal to create new HD338/339.

Pg 20 – Motion regarding Definition of shotgun in Weapons Restricted Area – include “smooth-bore and rifled barrel”.

Action: Brenden moved and Lane seconded the motion to approve the minutes of the February 12, 2004 meeting with the noted amendments. Motion carried.

3. Approval of Commission Expenses through February 29, 2004.

Action: Lane moved and Murphy seconded the motion to approve the February 29, 2004 Commission expenses as presented. Motion carried.

4. Commission Meeting Date Changes.

The April Commission meeting has been rescheduled to April 15 in Bozeman. Pat Flowers has arranged a field trip on April 14 through the Gallatin Valley and the Madison.

The May Commission meeting has been rescheduled for May 12 in Miles City. Bryce Christensen is planning a tour, and perhaps a Regional meeting if it works into the schedule.

5. Employee Recognition Award to Barney Benkelman for 10 Years of Service. Director Jeff Hagener presented Barney Benkelman, FWP IT Bureau Chief, with a Montana Silversmith Bear Head Belt Buckle and read a letter of commendation for the hard work and dedication Barney has provided to FWP over his 10 year with the Department.

5.1 Barney Benkelman, FWP IT Bureau Chief, updated the Commission on the progress of the Automated Licensing System (ALS), which is now in the 3rd Phase. Work is still being conducted to interface with SABHRS, which, when complete, will automatically transfer monies to the State Treasurer. Ideas for Phase 4 functions are being explored as to what the Department may need or desire. The current contract expires in February, 2006, which is the end of a 7-year contract.

The Department is now in Phase 2 of the internet-over-the-counter license sales portion of the system. Non-resident combination applications are being accepted over the internet, and beginning April 1, applications for residents and non-residents will also be accepted.

6. Revision to Commercial Use Definition within Parks Biennial Fee Rule - Final. **Doug Monger, FWP Parks Division Administrator**, said modifications to the commercial use definition of the Biennial Fee Rule were prepared and distributed for public comment following the December 2003 Commission meeting. The Commercial Use Definition within the biennial rule is intended for all State Parks and Fishing Accesses across the state. The comment period was from December 22, 2003 through February 10, 2004. Of the sixty-four comments received, 8 were in support, 52 were opposed, and 4 were neutral. The majority of comments were directed toward the Wild Horse Island situation.

The recommendation proposed by the Department reads as follows:

Commercial use of State Park and Fishing Access Site lands shall be defined as a for-profit or not-for-profit business or individual that, for monetary or other consideration, provides a service to another (e.g. guided walk or tour, float trip, vehicle transfer service, equipment usage or rental, retail sales, etc) within the area, or otherwise utilizes those lands or resources for consideration (Sections 23-1-102, MCA, 30-12-101, MCA, and 37-47-101, MCA).

Becky Dockter, FWP Legal Counsel, said the language proposed by the Department allows the Department to regulate usage. The biennial rule provides the opportunity to review and evaluate the situation in two years at which point changes can be made. FWP is presently regulating parks so there is no need to additionally specify regulation stipulations in the Rules. Dockter added that the Department has the authority to control group functions.

Mulligan and Murphy disagreed with the “vehicle transfer service” portion of the suggested rule. This was not part of the tentatives, and it triggers questions about shuttling vehicles on rivers, etc. It is simply a substitution for the word “shuttle” which created the problem previously. Monger replied that “vehicle transfer service” was merely an attempt to clarify the language.

Action: Mulligan moved and Murphy seconded the motion to remove the words “vehicle transfer service” from the proposed commercial use definition. Motion carried.

Discussion further ensued regarding the word “area” as it pertains to the provision of services within the Parks and FASs. Should it be more specific? Monger stated that FWP does not manage areas outside of the state parks; the intent of the wording is directed toward State Park and FAS boundaries. Mulligan said some Park and FAS boundaries can be misleading – some have fences or distinguishable boundaries, while others do not. Dockter recommended using the words “State Parks” and “FAS” rather than “area”.

Action: Murphy moved and Brenden seconded the motion to amend the language of the proposed commercial definition by replacing the word “area” with the words “within the state park or FAS lands”. Motion carried.

Action: Murphy moved and Lane seconded the motion to approve the Commercial Use Definition within the Parks Biennial Fee Rule as proposed by the Department, inclusive of the above amendments.

Discussion on Motion: Mike Hutchin, Lake County Commissioner, commended the Commissioners, and encouraged them to pass this motion. Bill Myers, owner/operator of Pointer Scenic Cruises, expressed his appreciation for this resolution. He agrees this is a statewide issue and not specific to Wild Horse Island (WHI) – those issues need to be addressed separately. Hank Harrington, WHI Lot Owners Association, spoke in opposition to the commercial definition.

Mulligan stated that there seems to be a perception among some folks that the Commission and FWP would not be meeting their responsibilities if charter boats to the Island are not regulated. The Department can and will continue to regulate group use of State Parks, and if group use of WHI, including chartered groups, begins to cause unacceptable impacts to the Island, FWP will regulate them. At this point, the Department chooses not to regulate how the public accesses the Parks.

Action on Motion: Motion carried.

The Department and Commission will continue to work with the WHI citizen advisory group to assist in the development of management strategies.

7. Future Fisheries Projects - Final. Chris Hunter, FWP Fisheries Division Administrator said the Future Fisheries Panel met January 23 to review the 34 projects totaling over \$900,000 dollars. The Panel recommended 27 projects at a cost of \$454,755. Approved projects must go through the MEPA process. The purpose of this program is to restore the rivers and streams.

Action: Walker moved and Brenden seconded the motion to approve #30 – the Tongue River off the Yellowstone River near Miles City.

Discussion on Motion: The two Commissioners expressed distress that this is the only proposal from Eastern Montana. Also, it is felt there is a lack of FWP personnel in that area.

Glenn Phillips, FWP Fisheries Habitat Bureau Chief, and Hunter explained that Eastern Montana does not have water-based people pursuing these opportunities. The majority of applications FWP receives are developed by consulting firms and by landowners pursuing these projects. Walker questioned if it would inspire something to be done in Eastern Montana if no projects were approved at all at this meeting. Hagener said if FWP does not spend the authorized monies, they may not be authorized at the same level by the next legislature. Hunter addressed the personnel issue by saying that when the Helena Fisheries office was reorganized this year, a new position was created for Region 7 to benefit Eastern Montana.

Mulligan suggested a list be developed comprised of projects needed in Eastern Montana. Hunter said the Fisheries Managers could work on that, and he added that the Department could also attempt to solicit projects from Eastern Montana. Glenn Phillips said efforts have been made to inform all of the regions of these opportunities. A list was developed a few years ago by biologists in each region, and a meeting was held in Eastern Montana with biologists. He said it is a different resource there – fisheries in Eastern Montana are largely reservoir or stock waters, or ponds, which are ineligible for this funding. Brenden reminded the group that the Yellowstone and Missouri Rivers are there as well as Fort Peck Dam.

Walker noted that several projects are keyed toward culvert situations. He asked if FWP is consulted on culvert placement when highway engineers design the roadways. Phillips replied that the Highway Department does accept some responsibility, and they do work with the Department. They also provide some monetary assistance. The culverts that are causing fish passage problems were designed years ago.

Mulligan stated he wants to assure that in the development of spring creeks for spawning, FWP is not simply developing fishing sites for private use. Hunter said some spring creeks are very small and hold no commercial value, and if signs of overuse become apparent, FWP would regulate them.

In response to questions on specific proposals, staff responded as follows:

Little Prickly Pear Creek and Sheep Creek Proposals (#13, #15). Mark Lere explained that the Oxbow Ranch has agreed to enter into water conversion, and if they do not, they will be required to return the money. The Rocking Z Ranch is still deciding if they will lease or go with conversion. An agreement will need to be approved by DNRC, and FWP will require a salvage agreement.

Thompson Spring Creek in Gallatin County (#27). Phillips said this proposal is by landowners who live along the stream, and this should be completed over the course of the next year. Funding is contingent on their finding additional funding.

Willow Creek in the Bitterroot Valley (#33) - the restoration of a one-third-mile stretch. Partial funding is recommended - the applicant needs to furnish the balance.

Action on the Motion to approve the Tongue River project (#30) as recommended by the Department. Motion carried.

Action: Mulligan moved and Murphy seconded the motion to approve the balance of the projects as recommended by the Department. (#1-29 and #30-34). Motion carried. Four in favor – one opposed (Brenden opposed).

8. Commercial Fishing Regulations - Final. Hunter said approval had been given to Richard and Donna Greene last year to establish a commercial fishing endeavor, however, he did not get his funding and paperwork in order. He is requesting approval again this year. The Department recommends approval and proposes including the Three Forks Pond as well.

Processing has been proposed to be done in Townsend. It is not to be done on or near the water, and Greene will need to obtain DEQ approval for his waste.

Action: Mulligan moved and Lane seconded the motion to approve the commercial fishing proposal with the additional restriction specifying that Greene not process fish, or dump fish waste, in or near the water, and must comply with appropriate state code. Motion carried.

9. Adoption of Paddlefish Roe Advisory Committee - Final. The Glendive Chamber of Commerce has been authorized to collect, process and sell paddlefish roe. They are charged with appointing a committee to solicit proposals from which to award grant money for local improvement projects. The applicant pool for the selection of committee members was to be expanded, however, that did not happen due to unforeseen circumstances. There are no changes to the committee members.

The last paddlefish roe program audit was done 10 years ago, therefore, this year an audit needs to be conducted. The cost of the audit is paid from the proceeds of any sales. Last year proceeds were low and no projects were solicited or funded. The size and number of fish caught impacts the revenue generated.

Action: Walker moved and Brenden seconded the motion to approve the Paddlefish Roe Advisory Committee, and to direct a program audit. Motion carried.

10. Yellow Bay No-Wake Zone - Final. Jim Kropp, FWP Enforcement Division Administrator, said a public hearing was held January 17, 2004 to address the possible implementation of a no-wake rule on Yellow Bay resulting from a petition submitted to FWP by Jack Stanford, U of M Biological Station requesting such rule. Two people testified – 1 in favor (a representative from the Biological Station) and 1 opposed (a Yellow Bay homeowner). Public comment resulted in no written responses. A 200-feet-from-the-shore no-wake safety zone is already in place along the shore of Flathead Lake. A warden from that area has indicated there have been no boating accidents there in the last 17 years he has resided there. The Department feels this is not a safety or resource issue, but a social issue. Murphy said he had attended the public hearing and shares that opinion.

Action: Murphy moved and Lane seconded the motion to deny the request to implement a no-wake zone on Yellow Bay.

Discussion on Motion: Mike Hutchins, Lake County Commissioner, said the Lake County Sheriff patrols the area by boat, and he is in support of the motion to deny the request.

Action on Motion: Motion carried.

11. Swan River No-Wake Zone - Final. Jim Kropp, FWP Enforcement Division Administrator, said the Swan River Homeowners Association petitioned FWP to designate a 6-mile section of the Swan River as a no-wake zone. A public hearing was held on January 17, 2004, at which one person testified in support of the no-wake rule. Kropp said 143 letters of support were received by FWP.

This section of the Swan River is narrow, shallow, and rocky. It is limited to motorboat access due to shallow water - boats have gotten into trouble and had to be taken out over private land. It remains popular to floaters and tubers, as well as to two river outfitters and two other commercial operators. FWP has identified this portion of the river to be a safety issue due to congestion and increased volume of floaters. Kropp stated that the Department recommends implementing a no-wake zone in this section of the river, and pointed out that there is already a no-wake closure farther up the Swan River where it flows into Swan Lake.

Brenden stated he is totally against this rule; this is not a safety issue. In his opinion, this situation does not differ from Yellow Bay. He said this rule would set a bad precedent, is discriminatory, and is restrictive. He expressed consternation at those who declare one activity to be more important than another; the waters are for everyone, not for particular interest groups. He stressed that a balance is needed, and FWP can achieve this balance. Brenden said the wardens have the opportunity to regulate imprudent driving of boaters and jet skis.

Action: Brenden moved and Walker seconded the motion to deny the no-wake zone on this area of the Swan River.

Discussion on Motion: Murphy asked if enforcement has the authority to issue citations to someone driving watercraft in a reckless manner, to which Kropp replied yes, there are reckless boating laws. Kropp added that due to congestion, depth of water, and natural barriers, this portion of the river is not conducive to large scale motorboat traffic. A jetboat can be driven in this water, but needs to be near full throttle to pass through, consequently exacerbating safety concerns. Brenden said if someone is crazy enough to mess up their boats and jet skis on such waterways, then so be it. He said it is a common sense issue, and added that wardens have authority to cite recklessness and regulate conflicts without establishing more regulations. Brenden said he is disgusted with out-of-state people moving to Montana and telling us what to do.

Mulligan said this is a very different situation than Yellow Bay, as the lake is a large open area, and the Swan River is a narrow, congested, shallow area. The use of speedboats is not compatible with this type of river. He said a no-wake rule would not set a precedent; the majority of narrow, shallow rivers already restrict the use of powerboats and jet skis.

Murphy asked if the Department has posted caution notices in any other areas alerting users of safety issues, as opposed to going to the extent of the no-wake rule. Kropp said notices have been posted at boat ramps identifying regulations relevant to the particular bodies of water, PSAs have been issued relative to water safety activity, and individual sites and hazards are posted and marked. He added that the legislature has also passed a bill allowing individuals to mark hazards in waterways.

Mike Hutchin, Lake County Commissioner, said Lake County is the 5th fastest growing county in the state. Several subdivisions have been approved, and more are being proposed, so the number of people using the river is increasing. He is in support of a no-wake zone.

Buzz Isfeld, representative of the Swan River Homeowners Association, said they have been coordinating with FWP for a couple of years. He said the voluntary no-wake zone has still created problems. He said this is a safety issue. This stretch of river is hazardous for boats.

Mulligan said he would not support the use of jet boats and jet skis on this river. It is not compatible with the river from a biological standpoint. Murphy shares concerns on both sides of the issue. He said from a safety standpoint, as the river narrows there is more potential of injury, however he agrees that a precedent is set every time something like this is done. He will not support a restriction but would consider no-wake. Is there signage? Kropp said a sign could be posted at boat ramps where people access Swan Lake. The bridge is too far down the river to place signs on.

Action on motion: Motion failed. Two in favor – three opposed. (Walker and Brenden in favor) - (Lane, Murphy and Mulligan opposed).

Kropp explained that a boat can go down river without making a wake, but cannot travel back up without making a wake behind the boat. He said as long as people are not acting negligently or recklessly, Enforcement permits whitewater behind boats for purposes of going to and from. Kropp said there is a big difference between an idling motorboat and jet skis / jet boats that have to go full throttle to get on plane.

Murphy questioned if a no-wake restriction could be modified to designate no-wake only during specified timeframes when this stretch of the river is usable to everybody. He feels people are placed in violation of the law when they have wakes behind them when it is impossible not to have a wake when traveling up river.

Kropp said there are several rivers in the state with a 10 horsepower limit. Mulligan said the Department has also instituted a minimum speed rule in some areas of no-wake zones to allow watercraft to remain upright and moving forward. Lane said he would like to see a minimum speed limit - everyone should have a chance to use the water.

Action: Mulligan moved to establish a no-wake zone on Swan River from Swan Lake to Bear Creek with the understanding that field enforcement will not cite someone if they create a wake while driving reasonably and prudently.

Discussion on Motion: Murphy again asked about the possibility of implementing a no-wake zone based upon conditions of the water - to look at implementing a no-wake zone at certain times of the year when there is higher risk. He does not want to set up a regulation that will force people to break the law. Mulligan said his motion included the stipulation that Enforcement would not cite someone for creating a wake if they are driving at a minimum speed.

Amendment to Motion: Mulligan amended his motion to move to establish a no-wake zone and/or minimum speed necessary to progress upstream on Swan River from Swan Lake to Bear Creek. Lane seconded.

Walker said another possibility would be to assign specific periods of time during the year. Brenden said society likes restrictive rules, but unfortunately some make it bad for the majority of people. Mulligan asked if “time of year” restrictions would be realistic given the fluctuations in streamflow from year to year. **Ed Kelly, FWP Region 1 Warden Captain**, said consistently high water begins June 20 and it falls off in late September. When the water drops in the fall it stays low until spring.

Amendment to Motion: Murphy amended Mulligan’s motion to establish a no-wake restriction on the Swan River from Swan Lake to Bear Creek from July 1 through September 15 with the understanding that field enforcement will not issue citations to anyone creating a wake while driving reasonably and prudently when traveling upstream (the minimum speed necessary to progress upstream). Walker seconded the amendment.

Action on Motion: Motion carried. Four in favor – one opposed. (Brenden opposed).

12. Lone Pine Game Preserve Boundary Change - Tentative. Don Childress, FWP Wildlife Division Administrator, said Jim Watson and Carol Bibler, owners of Spring Brook Ranch, the largest property within the preserve, have petitioned to withdraw their land from the Lone Pine Preserve. This preserve was created in the 1930s by Commission action through the ARM rule process, which will again be required to amend the preserve status. Preserves were created to enhance game populations, with much success to their credit. Preserve status prohibits firearms, which has become a concern to landowners and homeowners within the preserve. This firearms prohibition places many people who live within the preserve in violation of the law if they possess a firearm or transfer once from vehicle to residence etc.

Childress said the proposal being presented for review encompasses both the petition to eliminate the preserve as well as the opportunity for landowners to be allowed to withdraw from the preserve.

Tom Esch, Attorney representing Jim Watson and Carol Bibler, explained they wish to change the boundaries of Lone Pine Preserve so that Watson and Bibler can be withdrawn from the preserve. They base their request on five reasons:

1. No biological reason for the continuation of the preserve
2. Removal of their ranch will provide wildlife management options for the Department
3. Hunting can safely take place on this ranch
4. Neighbors opposed to the use of firearms can institute covenants to govern them
5. These petitioners should have the right to use firearms on their land

Esch said the ranch is under conservation easement and will not be developed further. There is a timber management plan for the ranch. Jim Watson, landowner, said without the option to carry firearms on his ranch, he cannot protect his livestock from predators or dispatch them if necessary.

Murphy said he would like to move forward with removing the preserve entirely. Walker asked if this process can move forward in a tandem fashion without complications. Childress said the proposal was written to provide the opportunity to explore both options in the early stages of the rule process. All that is needed is the Commission's approval to proceed with the ARM rule amendment which could include the abandonment of the Preserve, withdrawal of the land, or both.

Action: Murphy moved and Lane seconded the motion to proceed with the proposal to abandon the Lone Pine Game Preserve or allow the withdrawal of specific land ownerships currently within the boundary. Motion carried.

13. Landowner Incentive Program for Sagebrush Habitat - Final. This program is a federal program that provides cost share funding for projects that assist private landowners in preserving or enhancing lands for species in need. **Don Childress, FWP Wildlife Division Administrator,** said petitions on Sage Grouse have been filed across the West. The Gunnison and State of Washington petitions have been accepted by the US Fish & Wildlife Service (USFWS), but others have not been accepted due to insufficient information. Montana is included in a petition for a range-wide listing for the western sage grouse population. As of last week, the Service in their 90 day findings will likely say it warrants further study, which allows another 9 months to deal with the petition, and review the

information in more detail relative to all states as well as range wide assessment. Childress said our state plan should be ready by the first part of May.

The State of Montana has continued to move forward with the development of the State Conservation Plan for Sage Grouse. The Plan will be back from the printer and ready for distribution next week. The Department must go through MEPA process. The Western states all do not fall into the same categories – each state faces different issues.

The USFWS evaluates present or threatened destruction or modification of habitat, over-utilization, disease, and predation. Determination of whether a species is threatened or endangered requires the USFWS to evaluate the likelihood of the future. They will review our conservation plan to assess how our proposal addresses the present as well as the future. They also look to determine if Montana can actually implement the proposed plan.

Currently, about half of the sagebrush habitat is under private ownership. Another mechanism is in place to deal with the public landowners and tribal lands. FWP is looking for the opportunity to work with private landowners through the incentive program.

FWP has identified 1300 lek sites. The GIS Information System has been utilized to look at lands important to sage grouse. The leks are the focal area as 50 % - 60% of Sage Grouse nesting occurs within a 2-mile radius of lek sites. Through use of the GIS system, lands have been prioritized. The top 25 will be contacted to see if they are interested in a 30-year lease agreement at a flat rate of \$12 per acre. Childress said there is no market basis for establishing the \$12 value for sagebrush protection. He said he and Deb Dils, FWP Land Agent, compared other projects in order to make an educated guess, and they discussed the situation informally with a few landowners.

Brenden asked if landowners can belong to Block management if they enter into an agreement, to which Childress replied they could. Childress said FWP will also work with landowners who request grazing opportunities, but it is not provided to someone who already has an easement on his land. Childress stressed that access is not the focus of this program.

Lane asked what recourse the Department will have if landowners are not tempted by the \$12 to participate. Childress replied it may need to be reevaluated. He said he doesn't know how many landowners will be interested, however, when the notice went out that FWP had received the grant, a number of landowners contacted the Department expressing interest.

Brenden read from the Project Statement relative to *new technologies in herbicides and seed genetics and renewed emphasis on converting prairie to “organic” or chemical free cropland and advances in farm equipment guaranteeing widespread threats to sage grouse habitat*. He said he has never heard about all these lands being broken up for organic and chemical free cropland. He does not feel the Department knows what they are talking about when they refer to these issues; they are not farmers. He said he is angry that farming is blamed for screwing up the ground. He dislikes the term “sodbusting”, and said the only “sodbusting” being done is the re-breaking of CRP ground that was tilled up before, that there is very little land being broken up for crops. Childress said that “sodbusting” is substantially less than in the 1970s and 1980s, however the potential is still there. The major concerns are the manipulation of grazing aspects. Murphy and Brenden expressed concern about the

word “threat” used in the Project Statement relative to farming. Murphy said he wouldn’t call the use of land for agricultural activity a threat. Hagener explained that FWP is responding to the criteria established by the ESA which refers to “threat to habitat”; it is a response to the federal terminology. Brenden brought up the point that urbanization has greatly impacted the land as well.

Childress said there are three sage grouse working groups in place now, and they are just getting established. They are still getting background information, and the Department needs to assist in focusing the working groups so they can move forward with projects, and not become disinterested.

Walker asked if issues of coalbed methane development had been considered. Childress said areas involved with coalbed methane are not included in the Plan.

Jay Bodner, Montana Stockgrowers, said he likes the fact that this is a voluntary program. It is important that it recognizes the landowner and their contributions to sage grouse protection. He said it is important that it has flexibility regarding noxious weeds and disturbance of sagebrush (i.e. pipelines, etc). He urged caution in respect to making known the amount of acreage people own. He said FWP may not want to get too involved in the grazing program as some people might not like to be involved if we start telling them how to run it.

Action: Mulligan moved and Walker seconded the motion to approve the overall program guidelines for the Landowner Incentive Sagebrush – Grassland Habitat Program for protection of sagebrush associated with Sage Grouse leks and wintering areas. Motion carried.

14. River Recreation Management Policy - Informational. Charlie Sperry, FWP River Recreation Management Specialist, presented the draft statewide River Recreation Management Policy. The draft was provided to both the River Recreation Advisory Council and the Commission at the same time. Based on today’s feedback, it will be drafted for a tentative administrative rule for the April meeting. A public comment period will be conducted in May, and brought to the Commission in June for final consideration. He noted that a great deal of work has gone into this Policy.

The draft policy recommends an environmental analysis be conducted according to MEPA standards when developing management plans and rules. Mulligan asked that the policy also identify the need for the analysis, and include the procedures set by the River Recreation Advisory Council as some aspects of the decision making process may not be addressed in the MEPA analysis.

Sperry said the Preamble is valuable in the establishment of the context of the issues and why the policy came to be.

Seven policies have been developed (description included in commission packet).

- I. Authority, Roles and Purpose
- II. Policy Statements Pertaining to Natural Resources
- III. Policy Statements Pertaining to Management of River Use
- IV. Policy Statements Pertaining to the Development of River Recreation Management Plans and Regulations
- V. Policy Statements Pertaining to Restricting or Rationing River Use
- VI. Policy Statements Pertaining to Interagency Coordination and Consistency
- VII. Policy Statements Pertaining to the River Recreation Advisory Council Recommendations

It has been recommended by the Department to clarify terms that may be difficult to interpret in Section A under Policy III such as ...river recreation *historically* enjoyed by people in Montana... and ...impacted in their *traditional* uses... Also confusing is *reasonable and equitable*; although a definition is included, equitable can mean “equal” but in this case it means “type of user”. As this is an important concept, it was deemed important for the Commission to see it written this way prior to making any changes to it. The concept is not to place restrictions on any particular user group or residents or non-residents. If restrictions are made, it needs to be made on identifiable problems.

Mulligan said he is apprehensive about the Department manipulating the wording of Section III, Paragraph A. He said it took a lot of time to get this far, and it is feared that changes may not reflect past history of the river. There may have been traditional uses by Montanans that had been displaced over time by a change in use, and it is vital they are captured. As an example, the amount of private individual use has reduced considerably on the Beaverhead as commercial use has expanded because the private sector did not want to compete with the outfitters. This is the type of history they do not want to be lost in the process.

Mulligan also stated it is important not to focus on particular user groups just because they are particular user groups. The focus must remain on what the problem really is, regardless of the group. Walker said the Beaverhead/Big Hole rule would be fine with this paragraph. Mulligan agreed, but said there may be questions as to whether the Resident’s Day rule is still valid. When it was put into effect, the rationale for a Resident’s Day on the river was because the perception, and the data supported it, was that the most rapidly growing use – particularly on the Big Hole - was the non-guided non-resident.

It was suggested that the Department evaluate the existing information on rivers, and classify those rivers according to social and biological recreation issues. That process has been started, as well as the identification of rivers that may need further attention. Rivers are being evaluated regionally in order to pool and prioritize resources.

Discussion ensued regarding clarity that the Commission can act on emergency biological or public safety issues without requiring a meeting of the Advisory Council or going through an extensive analysis of the situation.

15. Urban Working Group. Larry Peterman, FWP Field Operations Chief, said wildlife within city limits and urban areas has increased over the last few years in Montana, as well as throughout the United States. This increase, and related problems, has caused great concern to the municipalities. When the 2003 legislative session passed HB249, the original draft directed FWP to develop a plan to eliminate wildlife within municipalities if those municipalities passed resolutions directing that action. The final version of HB249 provided municipalities with the authority to develop plans to deal with urban wildlife, but were required to present them to FWP for approval prior to any action. Prior to this, the municipalities did not have authority to deal with these issues.

The Department looked at the problems and concluded it was necessary to create a working group to discuss the issues, look for solutions, identify tools and resources available, look to future goals as to where FWP is going with urban wildlife, and determine how to involve municipalities to accomplish

objectives. When FWP created the working group, municipalities were included to allow them the ground floor advantage of the initial planning stages rather than bringing them into a process already underway. The first meeting of the Urban Working Group (UWG) convened on March 4, 2004, at which a charter was developed to provide a framework for activities and roles of the various entities involved. Attendees consisted of 12 FWP staff members, 5 municipalities, the Mayor of Fort Benton, Helena residents, Missoula residents, and Alan Hansen, the Executive Director of the League of Cities and Towns. The Group discussed the conflict issues between human habitation and wildlife in towns, subdivisions, and urban areas, and they studied areas with chronic problems. This last winter caused serious problems due to the severe winter conditions that drove animals into towns. In many areas, wildlife has moved into town; there are resident populations living in the city limits.

The UWG identified human safety and property damage as areas of concern. Dangerous animals, such as bears, lions, and moose, are presently being dealt with effectively. There are five individuals throughout the state whose sole responsibilities are to deal with those types of animals. Property damage, browsing issues, and birds such as crows and waterfowl, also create distress in some areas. There are people who love the deer, feed the deer, and welcome the deer. A program needs to be developed to deal with that situation.

Four goals were identified:

1. Insure the UWG is compatible with the mission of FWP
2. Provides balance in the UWG by addressing the roles that FWP and the cities and towns play
3. Be proactive in addressing controversy associated with urban wildlife issues and management plans
4. Ensure that appropriate interest groups are involved in the UWG decision process

Peterman said it was a positive meeting with no finger pointing. The Group has a good commitment to work together toward developing a strategy. One assignment that was made was to compile information on managing urban issues that have happened in other areas. The process of identifying the areas where these issues are serious has begun. A plan to define tools that can be utilized is underway. Views are diverse.

Educational efforts will be publicly exercised to make citizens aware of problems and assure them that efforts are being made to address them. Peterman said that the animals are here to stay, therefore management needs to be developed to make the situation acceptable. The next Urban Working Group meeting is scheduled for April 20 in Helena.

16. Wolf Management Update. Chris Smith, FWP Chief of Staff, handed out maps containing the distribution of wolf packs as of December 2003 (included in commission meeting file). Wolves are thriving in all three states. The US Fish & Wildlife Service (USFWS) has declared that Wyoming's plan is inadequate, therefore delisting of wolves is off the table for the foreseeable future. The USFWS is proposing to delegate authority for management of wolves to Montana and Idaho. The prospects for state management had been bleak until last week when the Department of Interior amended the 10j rules that govern management of wolves in experimental non-essential populations. FWP had begun talks with the USFWS when it looked like things would not work out in Wyoming.

Ed Bangs, USFWS Wolf Recovery Coordinator, had a federal wolf plan staff position in Kalispell become vacant. He suggested that rather than him hire a federal biologist, he would transfer funding to FWP to hire personnel to take over the wolf management responsibilities.

Senator Burns had included \$307,000 in the FY04 line item to be passed through to FWP in order to become more actively involved in wolf management. FWP is finalizing a Memorandum of Agreement with the USFWS that would add another \$120,000. Together, that funding would allow FWP to fill a position in Kalispell and field positions in two other locations in Montana. People could be hired as early as April or May. The Department anticipates becoming more involved in wolf management regardless of 10j rule changes.

The last update indicated that the USDA USFWS has killed 5 wolves in the Madison Valley – the Centennial wolf pack near Ennis. There is another unnamed pack in that area that had been unknown of until they started killing cattle. The intent is to remove these two packs as soon as possible.

Defenders of Wildlife are committed to continuing the compensation program as long as the wolves are listed. Wolves will not be delisted until all three state plans are approved by USFWS.

17. Public Opportunity to Speak on Issues Not Discussed at this Meeting. No comments.

Meeting adjourned at 4:27 p.m.

Dan Walker, Chairman

M. Jeff Hagener, Director